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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/815,341 | 03/31/2004 | Dennis R. Berman | TRV03-0001-1 | 8341 |
| 28422 | 7590 | 04/06/2007 | EXAMINER | |
| HOYT A. FLEMING III P.O. BOX 140678 BOISE, ID 83714 | | | LEE, BENJAMIN WILLIAM | |
| | | ART UNIT | PAPER NUMBER | |
| | | 3714 | | |
| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

| | | |
|------------------------------|-----------------|-------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/815,341 | BERMAN, DENNIS R. |
| Examiner | Art Unit | |
| Benjamin W. Lee | 3714 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 19 July 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-39 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-39 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>7-19-2006; 12-11-2006</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

1. The amendment filed on 07/19/2006 has been entered. Claims 1-39 are pending in the application and claims 1, 14, and 27 have been amended.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-39 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Re claims 1, 14, and 27: The claims are directed toward a program storage device storing a computer program. The computer program is recorded on a computer-readable medium and thus falls under the four statutory categories of invention (i.e. process, machine, manufacture, and composition of matter). However, the invention disclosed in claims 1, 14, and 27 includes the judicial exception of an abstract idea (determining whether a student correctly answered a question). No physical transformation is present in the claims to establish a practical application of the abstract idea. Furthermore, claims 1, 14, and 27 do not produce a useful, concrete, and tangible result. A “determination of whether the student correctly answered the at least one of the plurality of questions is determined at least in part by comparing the student-provided keyword to at least one of the plurality of keywords” is useful and concrete, but not necessarily

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tangible. A “determination” is a completely abstract concept and does not guarantee a real-world result. Therefore, claims 1, 14, and 27 are directed to non-statutory subject matter.

Re claims 2-13, 15-26, and 28-39: The claims are dependent on one of claims 1, 14, or 27 and do not disclose any further steps that would produce useful, concrete, and tangible results. Therefore, claims 2-13, 15-26, and 28-39 are directed to non-statutory subject matter.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2, 6, 8-15, 19, 21-28, 32, and 34-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over McElwrath (US 2004/0009462) in view of Ziv-el et al. (US 6,898,411 B2).

Re claims 1, 14, and 27: McElwrath discloses a program storage device/learning system database storing a computer program, the computer program for execution by a computer system having a processor and a memory (see ¶ [0069]), the computer program when executed by the computer system performing the following: requesting a Web server to serve a Web document/image/homepage, the Web document including a plurality of objects that provide the

ability to select/click on one training course/training session from a plurality (i.e. menu) of training courses/training sessions (see ¶ [0633]). McElwrath further discloses at least one of the plurality of training courses including a plurality of questions and a plurality of answers (see ¶ [0353]).

However, McElwrath fails to disclose the training courses include a plurality of keywords that form a part of the answers, the at least one of the plurality of questions is answered by a student providing a student-provided-keyword, and a determination of whether the student correctly answered the at least one of the plurality of questions is determined at least in part by comparing the student-provided-keyword to at least one of the plurality of keywords.

Ziv-el et al. teaches a method and system for online teaching using web pages. Teachers generate exercises for students related to a web page. The teacher designates a web page and questions and answers related to the web page for distribution to students (see Fig. 1; col. 4, lines 17-30; col. 4, lines 44-50). One of the embodiments of the invention allows for “fill-in-the-blank” type questions and responses (see col. 4, lines 24-27). The response of the students may be automatically checked for correctness by directly comparing the response to the teacher’s answer (see Fig. 5; col. 6, lines 61-66). Thus, a teacher provides questions, web pages/answers (the web page contains the answers to the question), keywords that form a part of the answers/web pages, student-provided-keywords (see Fig. 6; col. 7, lines 49-65), and a determination of whether the students correctly answered the question based on a comparison of the student-provided-keyword and at least one of the keywords.

Therefore, in view of Ziv-el et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to add the question/answer system incorporating web

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pages of Ziv-el et al. to the learning system of McElwrath in order to provide exercises to students that take advantage of the variety and depth of material available on the World Wide Web.

Re claims 2, 15, and 28: The teachings of McElwrath as modified by Ziv-el et al. as applied to claims 1, 14, and 27 above have been discussed. McElwrath further discloses an element/title that indicates that one of the plurality of training courses is available (see ¶ [0633]).

Re claims 6, 19 and 32: The teachings of McElwrath as modified by Ziv-el et al. as applied to claims 1, 14, and 27 above have been discussed. McElwrath further discloses the Web document/image includes an element that indicates that one of the plurality of training courses/modules within a course was previously completed by a user (see ¶ [0189]).

Re claims 8, 21, and 34: The teachings of McElwrath as modified by Ziv-el et al. as applied to claims 1, 14, and 27 above have been discussed. McElwrath further discloses the Web document/image includes an element that identifies the title of at least one training course (see ¶ [0633]).

Re claims 9, 22, and 35: The teachings of McElwrath as modified by Ziv-el et al. as applied to claims 8, 21, and 34 above have been discussed. McElwrath further discloses the element is one of a plurality of objects (see ¶ [0633]).

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Re claims 10, 11, 23, 24, and 36: The teachings of McElwrath as modified by Ziv-el et al. as applied to claims 1, 14, and 27 above have been discussed. McElwrath further discloses the Web document/image includes an element that identifies the number of questions in at least one training course (see ¶ [0143], lines 5-7).

Re claims 12, 13, 25, and 26: The teachings of McElwrath as modified by Ziv-el et al. as applied to claims 1 and 14 above have been discussed. McElwrath further discloses at least one training course from the plurality of training courses includes at least one session and the Web document/image includes an element/session number that identifies the number of sessions in the at least one training course (see ¶ [0738]).

Re claim 37: The teachings of McElwrath as modified by Ziv-el et al. as applied to claim 27 above have been discussed. McElwrath further discloses the at least one training session from the plurality of training sessions includes at least one part and the Web document includes an element that identifies the number of parts/modules in the at least one training session (see ¶ [0556]).

Re claim 38: The teachings of McElwrath as modified by Ziv-el et al. as applied to claim 27 above have been discussed. McElwrath further discloses the at least one training session from the plurality of training sessions includes at least one training day and wherein the Web document includes an element that identifies the number of training days in the at least one training sessions (see ¶ [0191] - ¶ [0192]).

Re claim 39: The teachings of McElwrath as modified by Ziv-el et al. as applied to claim 38 above have been discussed. McElwrath further discloses the Web document includes an element/calendar that identifies the number of training days completed in the at least one training session (see ¶ [0192] and ¶ [0200]).

6. Claims 3-5, 16-18, and 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over McElwrath as modified by Ziv-el et al. as applied to claims 1, 2, 14, 15, 27, and 28 above, and further in view of Sullivan et al. (US 6,662,365 B1).

Re claims 3, 16, and 29: The teachings of McElwrath as modified by Ziv-el et al. as applied to claims 2, 15, and 28 above have been discussed.

However, the teachings of McElwrath as modified by Ziv-el et al. do not disclose the element is an icon having the shape of an unlocked padlock.

Sullivan et al. teaches the concept of using padlock icons (see col. 7, lines 12-26).

Therefore, in view of Sullivan et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate an icon having the shape of an unlocked padlock into the method and system of McElwrath as modified by Ziv-el et al. in order to provide a visual representation of the status of a menu selection item.

Re claims 4, 5, 17, 18, 30, and 31: The teachings of McElwrath as modified by Ziv-el et al. as applied to claims 1, 14, and 27 above have been discussed.

However, the teachings of McElwrath as modified by Ziv-el et al. do not disclose the Web document/image includes an element that indicates that one of the plurality of courses is unavailable and element is an icon having the shape of a locked padlock.

Sullivan et al. teaches the concept of using padlock icons (see col. 7, lines 12-26).

Therefore, in view of Sullivan et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate an icon having the shape of a locked padlock to indicate a course is unavailable in order to provide a visual representation of the status of a menu selection item.

7. Claims 7, 20, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over McElwrath as modified by Ziv-el et al. as applied to claims 6, 19, and 32 above, and further in view of Beavers et al. (US 2004/0002049).

The teachings of McElwrath as modified by Ziv-el et al. as applied to claims 6, 19, and 32 above have been discussed.

However, the teachings of McElwrath as modified by Ziv-el et al. fail to disclose the element is an icon having the shape of a check.

Beavers et al. teaches a checkmark icon (see ¶ [148]).

Therefore, in view of Beavers et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate an icon having the shape of a check into the method and system of McElwrath as modified by Ziv-el et al. in order to indicate what selection was made.

Response to Arguments

8. Applicant's arguments with respect to claims 1-39 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin W. Lee whose telephone number is 571-270-1346. The examiner can normally be reached on Mon - Thurs (8:30AM-6PM), or Alt. Fri (8:30AM-5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

bwl/
Benjamin W. Lee
March 29, 2007

Kathleen M.
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PRIMARY EXAMINER